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Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
 Amendment of Section 73.202)
 of the Commission's Rules)
 Table of Allotments)
 For FM Broadcast Stations)
 (St. Augustine and Neptune Beach, FL))

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RM No. _____

MM Docket No. _____

To: Chief, Allocations Branch

PETITION FOR RULEMAKING

Clear Channel Broadcasting Licenses, Inc. ("CCBL"), licensee of WFKS(FM), Channel 250C2, St. Augustine, Florida, Facility ID No. 67243 (the "Station"), by its attorneys, hereby respectfully petitions the Commission for modification of the Commission's Table of Allotments for FM Broadcast Stations (Section 73.202 of the Commission's Rules) to: (a) delete Channel 250C2 from St. Augustine, Florida; (b) add Channel 250C2 to Neptune Beach, Florida; and (c) modify the license of the Station to specify operations on Channel 250C2 in Neptune Beach, Florida, in lieu of operation on Channel 250C2 in St. Augustine, Florida (collectively, the "Proposal").

Grant of the Proposal would provide first local aural transmission service to Neptune Beach, Florida, a census designated and independent community of approximately 6,816 persons, according to the 1990 Census. The community is

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self-governing, and, though in the Jacksonville Urbanized Area, Neptune Beach clearly has its own identity and merits its own transmission station, pursuant to the Commission's allotment priorities. *See Exhibit 1.* In addition, as the Station already encompasses more than 50 percent of the Jacksonville Urbanized Area within its *current* 70 dBu contour, a Huntington analysis should not be necessary.

Moreover, the Proposal would not deprive any community of its sole local transmission service. St. Augustine, the community to which the Station is currently assigned, will continue to be the community of license of five radio stations, even though it has only five thousand more residents than Neptune Beach. Also, the Proposal will enable the Station to maintain service to more than 95 percent of residents in its current service area, while increasing the Station's projected total service population.

A Technical Statement, attached as Exhibit 2, demonstrates that the Proposal is consistent with the Commission's technical rules. A statement from CCBL affirming that it will apply for the allotment if changed as proposed also is attached.

Accordingly, the Commission should grant the Petition, issue an appropriate Notice of Proposed Rule Making, and approve the proposed modification in the Station's license under Section 1.420(i) of the Commission's Rules.

Respectfully submitted,

**CLEAR CHANNEL
BROADCASTING LICENSES, INC.**

By: 
F. William LeBeau

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(202) 637-5706

Its Attorneys

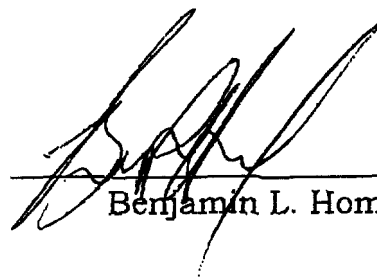
January 18, 2001

DECLARATION

I, Benjamin Homel, declare as follows:

1. I am Vice President of Clear Channel Broadcasting Licenses, Inc. ("CCBL"), the licensee of WFKS(FM), St. Augustine, Florida.
2. CCBL intends to apply for the construction permit for Channel 250C2 upon adoption of the proposed rule making, as proposed herein, amending Section 73.202, Table of Allotments, FM Broadcast Stations (St. Augustine and Neptune Beach, Florida).
3. If awarded the construction permit for Channel 250C2, CCBL will promptly construct and operate such facilities.

I hereby declare under penalty of perjury that the statements made in this declaration are true and accurate to the best of my knowledge, information and belief.



Benjamin L. Homel

January 17, 2001

EXHIBIT 1

(Legal Exhibit)

EXHIBIT 1

The foregoing Petition for Rule Making (the "Petition") requests that the Commission re-allot Channel 250C2 from St. Augustine, Florida, to the independent community of Neptune Beach, Florida, and simultaneously modify the license of WFKS(FM), St. Augustine, Florida (the "Station"), to specify the community of license of Neptune Beach (the "Proposal"). Because the Proposal is consistent with the public interest and better distributes local aural transmission service, the Commission should adopt the Petition and approve the Proposal as quickly as possible.

I. THE COMMISSION SHOULD ADOPT THE PROPOSAL, WHICH PROVIDES A FIRST LOCAL AURAL TRANSMISSION SERVICE TO NEPTUNE BEACH AS WELL AS OTHER DEMONSTRABLE PUBLIC INTEREST BENEFITS.

Three factors determine whether the Commission grants a proposal to change the FM Table of Allotments and an affected station's community of license: 1/

- whether the proposal is subject to competing applications; 2/

1/ See Report and Order, Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Parker and Port St. Joe), 11 FCC Rcd 1095 (1996) ("Parker & Port St. Joe R&O").

2/ The Commission's Rules state that competing applications will be accepted only if the amended allotment is not mutually exclusive with the licensee's present assignment or if the proposed change would deprive a community of its sole "local transmission service." See 47 C.F.R. § 1.420(i) & Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870, 4874 (1989) ("Change of Community R&O"), recon. granted in part, 5 FCC Rcd 7094 (1990).

- whether the proposal reduces or maintains any existing short-spacing; 3/ and
- whether the proposal is consistent with the statutory directive to “make such distribution of licenses . . . among the several States and communities as to provide a fair, efficient and equitable distribution of radio service to each of the same.” 4/

The instant Proposal satisfies each of these criteria.

First, under the Commission's Rules, the Proposal is not subject to competing applications. 5/ As the Technical Exhibit demonstrates, the Proposal is mutually exclusive with the current operation of the Station, and the Proposal would not deprive any community of its sole transmission service. In fact, the Station's current community of license – St. Augustine, which had a 1990 Census population not even twice as large as Neptune Beach – will continue to be home to three full-service commercial and noncommercial FM radio stations, two full-service AM radio stations, at least one FM translator and one Class A television station. 6/

Second, the proposed change complies with all of the Commission's technical rules and presents no short-spacing issues. 7/

3/ See *Parker & Port St. Joe R&O* at 1095 (¶ 2).

4/ 47 U.S.C. § 307(b).

5/ See attached Technical Exhibit ("Exhibit 2").

6/ See, e.g., http://svartifoss.fcc.gov:8080/prod/cdbbs/pubacc/prod/sta_sear.htm (using search "St. Augustine, FL").

7/ See Exhibit 2 at 2.

Third, the change would result in a more efficient and equitable distribution of local radio service. According to Commission precedent, a change to the FM Table of Allotments would result in a better distribution of service when the proposal better reflects the populations of and broadcast services available to an area's communities. 8/ Specifically, the Commission examines whether the proposed change would ensure one full-time aural reception service to a particular community. If not, the Commission considers whether the proposed change would afford any community a second full-time aural reception service or whether the proposed change would provide a community with its first local transmission service ("the "Local Transmission Priority"). 9/ Only to the extent that these first two priorities are inconclusive will the Commission then consider other public interest factors, including whether a proposal would enable comparatively sized communities to have a similar number of broadcast services or would increase the total number of persons served.

In this instance, because the Proposal would provide Neptune Beach – a growing and independent community with a 1990 Census population of 6,816 persons -- its first local aural transmission service, the Commission should adopt the Petition pursuant to the Local Transmission Priority. No higher re-allotment

8/ See *Parker & Port St. Joe R&O*, 11 FCC Rcd at 1095 (¶ 4).

9/ See *id.* Commission precedent accords equal weight to these two priorities in matters in which they are both pertinent. See *Change of Community R&O*, 4 FCC Rcd at 4873 & n. 8.

priority is implicated by the Proposal. 10/ Accordingly, the Commission should notice and ultimately grant the Proposal with all due speed.

II. THE PROPOSAL IS NOT SUBJECT TO, BUT NONETHELESS SATISFIES, ANY REASONABLE HUNTINGTON ANALYSIS.

The Local Transmission Priority presumes that every community deserves at least one local transmission service. 11/ A “limited exception” to this sensible presumption -- the Huntington Doctrine (otherwise called the *Tuck* exception) -- may sometimes warrant denial of the re-allotment of an FM frequency to a particular community if:

- the community is within an Urbanized Area, or the station in question would, for the first time, encompass at least 50 percent of the Urbanized Area within its 70 dBu contour if the proposed change was adopted; *and*
- the proposed community is not distinct from the Urbanized Area’s central city. 12/

10/ St. Augustine, Florida – which is part of the Jacksonville Radio Market -- is otherwise well-served by local aural broadcast services, including five other radio stations assigned to St. Augustine alone. *See, e.g.,* BIA Research, Investing In 2000 Radio Market Report at Market Rank 51. Accordingly, the current absence of any local transmission service for Neptune Beach is the most important consideration in this proceeding.

11/ *See Parker & Port St. Joe R&O* at 1095 (¶ 6).

12/ *Memorandum Opinion & Order, Faye & Richard Tuck, Inc.*, 3 FCC Rcd 5374 at 5376 (¶¶ 22-23) (1988); *see also Parker & Port St. Joe R&O* at 1095 (¶ 7) (inquiring as to whether suburb was “so integrally related” with the central city area as to be credited with all transmission services of that area).

Unless there is substantial evidence that the Huntington Doctrine applies, the Commission will “recognize a community’s presumptive need for local transmission service” and grant re-allotment. 13/

A. The Proposal Does Not Implicate a Proper Interpretation of the Huntington Doctrine.

Because the Huntington Doctrine is but a limited exception to the general rule that all bona fide communities merit their own radio station, the Commission largely has refused to extend the doctrine. 14/ In particular, the Allocations Bureau has determined that it will not extend the Huntington Doctrine to instances where a proposed reallocation would involve moving a station that serves a particular urbanized area to another community within that area. 15/

This sensible policy, which pays appropriate heed to the need to conserve the Commission's scarce resources, also should govern the Proposal. Under established Huntington precedent, a station that covers at least half of an Urbanized Area within its 70 dBu contour is deemed to serve that Urbanized

13/ See *Faye & Richard Tuck, Inc.*, 3 FCC Rcd at 5377 (¶ 24).

14/ See, e.g., *North Texas Radio, Inc.*, 11 FCC Rcd 8531 (1996) (holding that Huntington Doctrine does not apply to singleton application to construct new AM station).

15/ See, e.g., Notice of Proposed Rule Making, *Kankakee and Park Forest, Illinois*, MM Docket No. 99-330 at ¶ 6 (Allocations, released Dec. 15, 1999) (refusing to require a *Tuck* showing with regard to a station’s service of urbanized area in which the station’s former community of license was located); *East Los Angeles, Long Beach, and Frazier Park, California*, 10 FCC Rcd 2864 (¶¶ 20-21) (Allocations, 1995).

Area. ^{16/} Here, the Station already covers 52 percent of the Jacksonville Urbanized Area with a 70 dBu signal. Accordingly, under established Commission precedent, the Station already serves the Jacksonville Urbanized Area. Thus, the proposed reallocation of the Station to become the first local transmission service for Neptune Beach should not require a Huntington analysis with regard to Jacksonville.

Such a result, in addition to being consistent with Commission precedent and practice, also is consistent with the purpose of the Doctrine: to ensure that stations that have not previously served an urbanized area do not flock to serve such areas to the detriment of their existing communities. As, in this case, St. Augustine would remain well-served by five of its own radio stations, and the Station already serves the majority of the Jacksonville Urbanized Area, there is no reason for the Commission to extend the Huntington Doctrine to the Proposal. ^{17/}

Instead, the Commission must focus on whether the proposed reallocation would more fairly allot scarce FM frequencies among bona fide communities. The Proposal requests Commission consent to re-allocate the Station's frequency from St. Augustine, a community with a 1990 Census population of 11,692 persons and six full-power radio stations, to Neptune Beach, a self-governing community with a 1990 Census population of 6,816 persons, but no broadcast

^{16/} See *Headland, Alabama, and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

^{17/} See *East Los Angeles, Long Beach, and Frazier Park, California*, 10 FCC Rcd 2864 (¶ 21) (Allocations, 1995) (refusing to consider Huntington factors when

stations of its own. Since, under this standard, it is self-evident that a community such as Neptune Beach, which has more than half the population of St. Augustine, at least should have one-fifth as many radio stations, and that, in any event, such a community deserves at least *one* radio station -- the Commission should notice and grant the Proposal.

B. Even If The Huntington Doctrine Is Considered, The Proposal Still Merits Commission Approval.

Even if the Commission were to consider application of the Huntington Doctrine, it should still grant the Proposal. Commission precedent has established three basic criteria to determine whether the Huntington Doctrine should deny re-allotment under the Local Transmission Priority in a particular case: 18/

- the size and proximity of the specified community to the central city;
- the signal population coverage at maximum power; and
- the interdependence of the community with the central city.

A review of these criteria confirms that Neptune Beach, though located within the Jacksonville Urbanized Area, merits its own broadcast service.

station to be moved already serves urbanized area as the "first local service preference is not being used as a basis to enter the market.").

18/ *Faye and Richard Tuck, Inc.*, 3 FCC Rcd 5374, 5377 (1988).

1. **Neptune Beach, which is a significant community surrounded by water or communities with their own radio stations, deserves its own broadcast service.**

Neptune Beach, a self-governing city, has a 1990 Census population of 6,816 persons. (Since 1990, the city's population has grown to approximately 7,500 persons, according to a 1997 estimate.) Established in 1931, it is bordered on the north by Atlantic Beach, a community with its own AM and FM stations, on the south by Jacksonville Beach, a community with its own AM station, on the west by the Intra-Coastal Waterway, and on the east by the Atlantic Ocean. 19/ Also, Neptune Beach – the geographic coordinates of which lies some 16 miles east of Jacksonville's – is as far from downtown Jacksonville as a number of communities with FM stations, including Atlantic Beach, Baldwin and Ponte Vedra Beach. 20/

In addition, Neptune Beach must be considered at least as deserving as other nearby communities within the Jacksonville DMA that have their own radio stations. For instance, the town of Baldwin – which has but 1,450 residents

19/ That each of the two communities contiguous to Neptune Beach have a radio station, including one FM station, is itself evidence that Neptune Beach is deserving of its own radio station. *See Parker & Port St. Joe*, 11 FCC Rcd at 1096.

20/ *See* 47 C.F.R. § 73.202. Specifically, the U.S. Geographic Name Server through the web site <http://www.indo.com/distance>, which has been used in other Commission proceedings, states that the distances between Neptune Beach and Jacksonville (16 miles) is comparable to that of the distance (16 miles) between Jacksonville and Atlantic Beach, a community within the Urbanized Area of 11,636, and that of the distance between Jacksonville and Baldwin, a community within the Urbanized Area of only 1,450 residents (19 miles). Both Atlantic Beach and Baldwin have their own AM *and* FM stations.

according to the 1990 Census -- has its own FM (and its own AM) station, even though that community is surrounded by Jacksonville. Baldwin also has but one-fifth of one percent of Jacksonville's 1990 population of 635,230, while Neptune Beach's growing population -- which is roughly 4 times the size of Baldwin's -- is more comparable to those of Atlantic Beach or St. Augustine itself. Specifically, St. Augustine, the Station's current community of license, has a 1990 population of 11,692, or just a few thousand persons more than Neptune Beach's estimated 1997 population, and yet St. Augustine has (including the Station) six of its own radio stations. As Commission precedent suggests that the number of allotments to a community generally should reflect the relative size of the community, Neptune Beach, which has a larger population than Baldwin and a comparable population to Atlantic Beach and St. Augustine, likewise deserves at least one radio station to call its own. ^{21/} Accordingly, as compared to nearby communities with FM allotments, this criterion supports adoption of the Proposal.

2. The Station already serves the majority of the Jacksonville Urbanized Area with a 70 dBu signal.

The Proposal does involve a re-location of the Station's transmitter, which is necessary to eliminate existing short-spacings to three stations. Although that re-location will contribute to the Station being able to reach 87 percent of the Jacksonville Urbanized Area with a 70 dBu signal, the Station's current city-grade

^{21/} See *Douglas, Tifton and Unionville, Georgia*, 12 FCC Rcd 1280 (1997) (reallotting channel would equalize the number of transmission services between larger and smaller communities).

contour already encompasses more than 50 percent of the Jacksonville Urbanized Area. Also, the Proposal will not preclude the Station from continuing to serve more than 95 percent of its existing service population. Accordingly, this criterion presents no reason to reject the Proposal.

3. Neptune Beach, a self-governing community, also is as distinct from Jacksonville as its neighbors, each of which has its own radio station.

As to be expected from such a growing and physically distinct community, Neptune Beach's residents do not depend on Jacksonville for private or public services, their retail services, or local events. Commission precedent focuses on eight factors for assessing whether a community within the boundaries of an urbanized area is dependent on that area's central city:

- whether the community has its own local government and elected officials;
- the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries;
- whether the community has its own commercial establishments, health facilities, and transportation systems;
- the extent to which community residents work in the central city;
- whether the community has its own newspaper or other local media;
- whether the community leaders and residents perceive the specified community as being separate from the larger metropolitan area;

- whether the community has its own telephone book or zip code; and
- the extent to which the specified community and the central city are part of the same advertising market.

As measured by these factors, Neptune Beach merits its own broadcast service.

First and foremost, Neptune Beach has its own city government, including its own elected mayor, city council, and city clerk. Its city manager, who is appointed by the city council, indirectly oversees separate city departments of public safety, public works and finance.

Second, the City of Neptune Beach provides its residents an extensive variety of municipal services, including its own sewage plant and water works. 22/ The city's public safety department oversees the Neptune Beach Police Department and Neptune Beach Fire Department, as well as other public safety personnel. 23/ The city's Parks and Recreation Department is responsible for the city's several parks, including Jarboe Park, which features, among other more common amusements, a Butterfly Garden. Neptune Beach also boasts its own schools – including Fletcher High School and Neptune Beach Elementary School.

Third, the community has its own health care and commercial facilities. In addition to the Beaches Speech and Language Center, there are at least a dozen medical practitioners with Neptune Beach addresses. 24/ Among its

22/ See, e.g., Attachment 1 (listing addresses of various Neptune Beach entities).

23/ See *id.*

24/ See *id.*

dozens of retail establishments, the city boasts four grocery stores, two separate pharmacies, five beauty salons, a hardware store, two hotels, three banks, and roughly 15 restaurants. The city also is not dependent on Jacksonville for other services: for example, the community has at least two dance studios, a number of insurance agents, and nearly a dozen attorneys or law firms.

Such indicia are sufficient to deem Neptune Beach a distinct community deserving of its own radio station. However, these are not the only distinguishing characteristics of the community. In addition to the wide variety of commercial establishments (which also provide employment to Neptune Beach) noted above, Neptune Beach is intent on fostering its sense of community among its residents. For example, Neptune Beach is in the process of refurbishing its own Town Center, which, when finished, will offer the community a focal point for its commercial district. The city recently completed work on a new City Hall, and has its own beautification committee. Also, the city hosts a city festival annually, as well as other periodic community events. Neptune Beach also builds its sense of community through its six churches and one chapel.

Neptune Beach does not have its own phone book or newspaper, and it is part of the Jacksonville Designated Market Area. However, such minor characteristics cannot deny Neptune Beach its own local transmission service in light of the other evidence in favor of the change. In fact, the lack of newspaper should be all the more the reason for the community to obtain a local media source

of its own. Moreover, mail to Neptune Beach is to be addressed to Neptune Beach and the city's associated zip code -- 32266.

As noted, a finding that a proposed community is distinct from a nearby city is the single most important consideration in determining whether the narrow Huntington exception should block a requested change in the Table of Allotments. 25/ Because, in this case, Neptune Beach is not dependent on Jacksonville for its government, its schools, its retail, social or community services, and because Neptune Beach has maintained its own sense of a distinct community, the Huntington Doctrine is not a bar to Neptune Beach be awarded its first local transmission service.

CONCLUSION

The proposal described in the Petition complies with all Commission requirements. It does not disrupt service to a rural region, as the Station already serves more than 50 percent of the Jacksonville Urbanized Area with its 70 dBu signal. Moreover, the Proposal, which eliminates certain existing technical issues and creates a slight gain in overall potential listenership, will enable the Station to continue to serve more than 95 percent of its existing service population. Finally, it brings the first local aural transmission service to Neptune Beach, a distinct Florida community with its own government, municipal services, commercial, health and social services, and its own sense of identity.

25/ See *Faye and Richard Tuck, Inc.*, 3 FCC Rcd at 5377 (¶ 28).

For all the foregoing reasons, the Commission should adopt and grant the proposed rule making.

ATTACHMENT 1

(Pages from Yahoo Yellow Pages for Neptune Beach)

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Business Name	Address	City	Phone
Government Employees Credit	500 1st St	Neptune Beach, FL	(904) 359-6800
Neptune Beach City Hall	116 1st St	Neptune Beach, FL	(904) 270-2400
Neptune Beach Sewage Plant	2010 Forest Ave	Neptune Beach, FL	(904) 270-2422
Neptune Beach Water Plant	1019 5th St	Neptune Beach, FL	(904) 270-2419

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Business Name	Address	City	Phone
Neptune Beach Fire Dept	200 Lemon St	Neptune Beach, FL	(904) 270-2413

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Business Name	Address	City	Phone
Neptune Beach Police Dept	200 Lemon St	Neptune Beach, FL	(904) 270-2413

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Business Name	Address	City	Phone
Beaches Chapel	610 Florida Blvd	Neptune Beach, FL	(904) 241-4211
Beaches Independent Middle	2049 Florida Blvd	Neptune Beach, FL	(904) 247-5358
De Paul School	407 3rd St	Neptune Beach, FL	(904) 241-7007
Fletcher High School	700 Seagate Ave	Neptune Beach, FL	(904) 247-5905
Neptune Beach Elementary	1515 Florida Blvd	Neptune Beach, FL	(904) 247-5954
Red School House	2049 Florida Blvd	Neptune Beach, FL	(904) 249-0905

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Business Name	Address	City	Phone	
Advanced Nutritional Systems	440 3rd St	Neptune Beach, FL	(904) 249-3707	
Alternative Wellness Ctr	1112 3rd St	Neptune Beach, FL	(904) 349-2946	
Atlantic Family Institute	920 3rd St # C	Neptune Beach, FL	(904) 247-5669	
Beaches Speech & Language Ctr	1823 3rd St	Neptune Beach, FL	(904) 246-9353	
Charles Perniciaro MD - Neptune Beach Dermatology	302 3rd St	Neptune Beach, FL	(904) 246-0908	PhysicianInfo
Cobalt Moon Healing Ctr	217 1st St	Neptune Beach, FL	(904) 246-2131	
Dale D Fralicker - Intaplex	320 3rd St # B	Neptune Beach, FL	(904) 270-0767	
Dale R Fralicker MD - St Vincent Primary Care	320 3rd St	Neptune Beach, FL	(904) 241-8788	PhysicianInfo
Gross Brenda	808 3rd St	Neptune Beach, FL	(904) 247-4335	
James Barbara	302 3rd St # 3	Neptune Beach, FL	(904) 247-3679	
James Lane DDS - James A Lane & Assoc	802 3rd St	Neptune Beach, FL	(904) 247-0111	
Jones Phil DDS	802 3rd St	Neptune Beach, FL	(904) 247-0444	
Juan Carlos Quintana MD - Jacksonville Pediatric Assoc	930 3rd St	Neptune Beach, FL	(904) 241-2860	
Michael P Pruitt MD - Adolescent & Adult Psychiatric	808 3rd St # A	Neptune Beach, FL	(904) 249-6264	
Nancy J Thomas PHD - Devereux & Assoc	910 3rd St # B	Neptune Beach, FL	(904) 721-3806	
Neptune Beach Dermatology	302 3rd St	Neptune Beach, FL	(904) 246-0908	
Norberto Benitez MD - Jacksonville Pediatric Assoc	930 3rd St	Neptune Beach, FL	(904) 246-9428	
Shariat Abbas MD	804 3rd St # A	Neptune Beach, FL	(904) 246-9464	PhysicianInfo
Stephen Batton DO - Stephen Batton & Assoc	910 3rd St # B	Neptune Beach, FL	(904) 246-5448	
Thomas A Kiska DC - Advanced Chiropractic Ctrs	440 3rd St	Neptune Beach, FL	(904) 249-5999	

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Business Name	Address	City	Phone
Burger King	1201 Atlantic Blvd	Neptune Beach, FL	(904) 241-5808
Family Steak Houses Of Florida	2113 Florida Blvd	Neptune Beach, FL	(904) 249-4197
Firehouse Subs	233 3rd St	Neptune Beach, FL	(904) 249-6013
Hala Sandwich Shop & Bakery	1451 Atlantic Blvd	Neptune Beach, FL	(904) 249-2212
Harmonious Monks	253 3rd St	Neptune Beach, FL	(904) 241-1114
KFC	626 Atlantic Blvd	Neptune Beach, FL	(904) 241-0544
May's Dragon	1311 Atlantic Blvd	Neptune Beach, FL	(904) 246-9727
Mezza Luna Ristorante	110 1st St	Neptune Beach, FL	(904) 246-5100
Miami Subs	410 Atlantic Blvd	Neptune Beach, FL	(904) 247-1511
Popeye's Chicken & Biscuits	524 Atlantic Blvd	Neptune Beach, FL	(904) 249-5423
Ryan's Family Steakhouse	1425 Atlantic Blvd	Neptune Beach, FL	(904) 241-2100
Shelby's Coffee Shoppe	200 1st St	Neptune Beach, FL	(904) 249-5182
Surf Sushi Restaurant	106 1st St	Neptune Beach, FL	(904) 241-0099
Vagabondo Ristorante & Club	110 1st St	Neptune Beach, FL	(904) 249-5573
Village Inn	200 3rd St	Neptune Beach, FL	(904) 241-7626

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Business Name	Address	City	Phone
45 Sundries & Grocery	838 Florida Blvd	Neptune Beach, FL	(904) 359-0654
Avenue Market	678 Florida Blvd	Neptune Beach, FL	(904) 353-7181
Food Lion	654 Atlantic Blvd	Neptune Beach, FL	(904) 249-1907
Winn-Dixie	1209 Atlantic Blvd	Neptune Beach, FL	(904) 241-4368

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Business Name	Address	City	Phone
Scotty's	630 Atlantic Blvd	Neptune Beach, FL	(904) 249-0257

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Business Name	Address	City	Phone
All Cuts & More Beauty Salon	1529 Atlantic Blvd	Neptune Beach, FL	(904) 270-2288
British Accents	241 Atlantic Blvd # 9	Neptune Beach, FL	(904) 246-7386
Hair Cuttery	666 Atlantic Blvd	Neptune Beach, FL	(904) 249-6236
Ocean Nail	1521 Atlantic Blvd	Neptune Beach, FL	(904) 246-6050
Shear Freedom Beauty Salon	1483 Atlantic Blvd	Neptune Beach, FL	(904) 246-6814

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Business Name	Address	City	Phone
Eckerd Drug	414 Atlantic Blvd	Neptune Beach, FL	(904) 241-2461
Walgreens Drug Store	406 Atlantic Blvd	Neptune Beach, FL	(904) 247-1950
Winn-Dixie	1209 Atlantic Blvd	Neptune Beach, FL	(904) 241-4368

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Business Name	Address	City	Phone	Reviews
Days Inn	1401 Atlantic Blvd	Neptune Beach, FL	(904) 249-3852	
Sea Horse Oceanfront Inn	120 Atlantic Blvd	Neptune Beach, FL	(904) 246-2175	

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Business Name	Address	City	Phone
Bank Of America	301 3rd St	Neptune Beach, FL	(904) 246-6401
Oceanside Bank	560 Atlantic Blvd	Neptune Beach, FL	(904) 247-9220
Sun Trust Bank	500 3rd St	Neptune Beach, FL	(904) 247-3000

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Business Name	Address	City	Phone
Deborah Halvorsen - Winter Law Firm	310 3rd St	Neptune Beach, FL	(904) 399-0121
Forsyth Allison W	800 3rd St # C	Neptune Beach, FL	(904) 241-7511
Gaglione Lori	258 3rd St	Neptune Beach, FL	(904) 249-3046
Jones Edward S	800 3rd St # C	Neptune Beach, FL	(904) 241-1026
Joseph M Glickstein Jr - Glickstein & Glickstein	1008 Ocean Front	Neptune Beach, FL	(904) 247-1305
Keene Richard C	800 3rd St # C	Neptune Beach, FL	(904) 247-1600
Leitman Steven A	252 3rd St	Neptune Beach, FL	(904) 242-0191
Moorehead Richard	444 3rd St	Neptune Beach, FL	(904) 247-5147
Sorrell Mary	2275 Atlantic Blvd	Neptune Beach, FL	(904) 247-1484
Stephen A Hould - Glickstein & Glickstein	1008 Ocean Front	Neptune Beach, FL	(904) 247-1305
W Alan Winter - Winter Law Firm	310 3rd St	Neptune Beach, FL	(904) 399-0121

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Business Name	Address	City	Phone
Carl Harrell - Government Personnel Mutual	1467 Atlantic Blvd	Neptune Beach, FL	(904) 241-3263
Chelsea Surplus Underwriters	810 3rd St # C	Neptune Beach, FL	(904) 242-9800
First Coast Insurance	1491 Atlantic Blvd	Neptune Beach, FL	(904) 242-7000
Joan Warwick - Joan Warwick Insurance	1112 3rd St # 2	Neptune Beach, FL	(904) 246-4856
O'Steen Adjusting Svc Inc	1135 Kings Rd	Neptune Beach, FL	(904) 249-0994
Roayl & Sun Alliance Financial	1947 Seagull Cv	Neptune Beach, FL	(904) 247-4200
Schantz Agency	302 3rd St	Neptune Beach, FL	(904) 246-1018

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Business Name	Address	City	Phone
First Coast Ballet	610 Florida Blvd	Neptune Beach, FL	(904) 241-1266
Nancy Dance Studio	1415 Atlantic Blvd # A	Neptune Beach, FL	(904) 241-8349

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EXHIBIT 2

(Technical Exhibit)

TECHNICAL EXHIBIT
PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
ST. AUGUSTINE AND NEPTUNE BEACH, FLORIDA

Technical Narrative

This technical narrative and associated exhibits have been prepared on behalf of station WFKS-FM¹ in support of a Petition for Rule Making to amend 47 C.F.R. Section 73.202(b) by the reallocation of channel 250C2 (97.9 MHz) from St. Augustine, Florida to Neptune Beach, Florida and the modification of the station's license (BLH-921223KB) accordingly. As the requested change is mutually exclusive with the allotment of channel 250C2 at St. Augustine, Petitioner invokes the provisions of Section 1.420(i).

The following is a summary of the reallocation proposal:

- The community of Neptune Beach (1990 Census population 6,816 persons) will be provided with its first local aural transmission service and the community of St. Augustine (1990 Census population 11,692 persons) will continue to have local aural service from five radio stations.²
- The proposed allotment site satisfies the Commission's allocations spacing rules.³
- The 60 dbu gain area will encompass 46,122 persons, while the 60 dbu loss area will encompass 40,513 persons, for a net gain of 5,609 additional persons served within the 60 dbu service contour.
- The 60 dbu service contour is well served by a number of radio services, five of which are licensed to serve the community of St. Augustine which will be losing WFKS-FM as an aural service.

¹ Formerly, WFSJ-FM.

² WAOC-AM, WFOY-AM, WKLN-AM, WSOS-FM and WYGV-FM.

³ Proposed allotment coordinates are 30° 16' 53" North, 81° 34' 15" West. See this Exhibit under the heading "Compliance With FCC Rules" for details on allocations considerations with respect to this site.

Proposed Change in Table of Allotments

Station WFKS-FM is currently licensed to operate via a directional antenna on channel 250C2 at St. Augustine, Florida with an effective radiated power (ERP) of 50 kW and an antenna height above average terrain (HAAT) of 147 meters, and holds a construction permit to change to omnidirectional operation at 50 kW ERP from an antenna height above average terrain of 147 meters.⁴

St. Augustine is located in St. Johns County, Florida, and has a 1990 U.S. Census population of 11,692 persons. Radio stations WAOC-AM, WFOY-AM, WKLN-AM, WSOS-FM and WYGV-FM are currently licensed to serve St. Augustine. Therefore, adoption of the proposal will not deprive St. Augustine of its sole "existing" local service.

Neptune Beach is located in Duval County, Florida, and has a 1990 U.S. Census population of 6,816 persons. Neptune Beach has no local FM or AM aural broadcast service and, therefore, Petitioner's proposal would bring a first local aural broadcast service to Neptune Beach. Accordingly, Petitioner requests modification of the FM allocation table as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
St. Augustine, FL	231C3, 250C2	231C3
Neptune Beach, FL	---	250C2

Compliance With FCC Rules

The attached *Figure 1* is a tabulation of required separations pertinent to use of channel 250C2 at Neptune Beach, Florida.⁵ The reference site complies with the Commission's minimum distance separations contained in Section 73.207 of the FCC's rules to all existing, authorized and proposed stations and allotments. Operation from the reference site will provide the requisite city grade (70 dbu) signal to all of Neptune Beach.⁶

⁴ BPH-990513IB.

⁵ The geographic coordinates for channel 250C2 at Neptune Beach are 30° 16' 53" North, 81° 34' 15" West.

⁶ See *Figure 3* herein.

Figure 3 is a map which was developed using the 1990 U.S. Census Topologically Integrated Geographic Encoding and Referencing (TIGER) Line files which depicts the city grade coverage (70 dbu) contours based on maximum class C2 facilities (ERP 50 kW/HAAT 150 meters) at the proposed allotment site. As shown, all (100%) of Neptune Beach is located within the 70 dBu City Grade contour.

Urbanized Area Considerations

The WFKS-FM 70 dbu contour currently encompasses 52% of the Jacksonville Urbanized Area. The proposed 70 dbu contour will encompass 87% of the Jacksonville Urbanized Area. See Figure 3.

60 dbu Gain and Loss Areas

There are currently 855,052 persons residing within the WFKS-FM 60 dbu contour. There will be 860,661 persons residing within the proposed WFKS-FM 60 dbu contour. Service will be maintained to 814,539 persons currently residing within the WFKS-FM 60 dbu contour. 40,513 persons residing within the current WFKS-FM 60 dbu contour will lose service. 46,122 persons will gain 60 dbu service within the proposed WFKS-FM 60 dbu contour as a result of the proposed C2 operation at Neptune Beach. See Figure 4.

Coverage Contours

The FM predicted coverage contours were calculated in accordance with the provisions of Section 73.313, except that, in accordance with current FCC practice, uniform terrain was assumed in all directions.

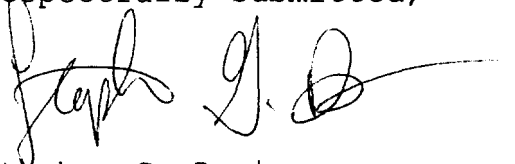
Population and Area

The population within the FM primary service contour (1 mV/m) was calculated using a computer program that utilizes the 1990 U.S. Census database of "population centroids". The program adds the populations of those U.S. Census designated areas whose centroid lies within each service area.

Conclusion

Channel 250C2 can be reallocated from St. Augustine, Florida to Neptune Beach, Florida in compliance with all applicable Commission rules. The community of Neptune Beach (1990 Census population 6,816) will be provided with a first local aural transmission service and the community of St. Augustine (1990 Census population 11,692) will continue to have local aural service. No service will be lost in any underserved area⁷. Therefore, Petitioner requests the reallocation of channel 250C2 from St. Augustine to Neptune Beach, Florida and the modification of the WFKS-FM license (BLH-990614KA) accordingly.

Respectfully submitted,



Stephen G. Davis
Vice President
Citicasters Co.
5801 E. 41st St., Suite 715
Tulsa, Oklahoma 74135

January 16, 2001

⁷ Defined as an area receiving service from less than five aural broadcast services. In the case of this proposal, the 60 dbu loss area will continue to receive 60 dbu service from the five stations licensed to serve St. Augustine, Florida, plus numerous Jacksonville, Gainesville, and other area broadcast radio services.

WFKS-FM
Figure 1

REFERENCE
30 16 53 N
81 34 15 W

CLASS = C2
Current Spacings

DISPLAY DATES
DATA 01-15-01
SEARCH 01-15-01

----- Channel 250 - 97.9 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
WFKSFM CP	250C2	St. Augustine	FL	21.95	153.8	190.0	-168.05
WFKSFM LI	250C2	St. Augustine	FL	21.95	153.8	190.0	-168.05
WSKYFM LI	249A	Micanopy	FL	109.95	221.3	106.0	3.95
WSKYFM CPM	249A	Micanopy	FL	109.95	221.3	106.0	3.95
WQHLFM LI	251C2	Live Oak	FL	134.19	270.6	130.0	4.19
WXTB LI	250C	Clearwater	FL	260.17	206.8	249.0	11.17
WWUF LI	249A	Waycross	GA	119.76	327.0	106.0	13.76
WGNEFM LI	251C1	Titusville	FL	173.05	156.6	158.0	15.05
WXTB LI	250C	Clearwater	FL	270.00	203.2	249.0	21.00
WXTB LI	250C	Clearwater	FL	270.00	203.2	249.0	21.00
WSKYFM CP	247C2	Micanopy	FL	120.74	233.4	58.0	62.74
WSKYFM CP	247C2	Micanopy	FL	120.80	233.4	58.0	62.80
WTKK LI	253C1	Crystal River	FL	148.77	220.5	79.0	69.77
WGCO LI	252C1	Midway	GA	148.94	7.7	79.0	69.94

**Figure 3:
WFKS-FM
Proposed and Existing City Grade Contours**

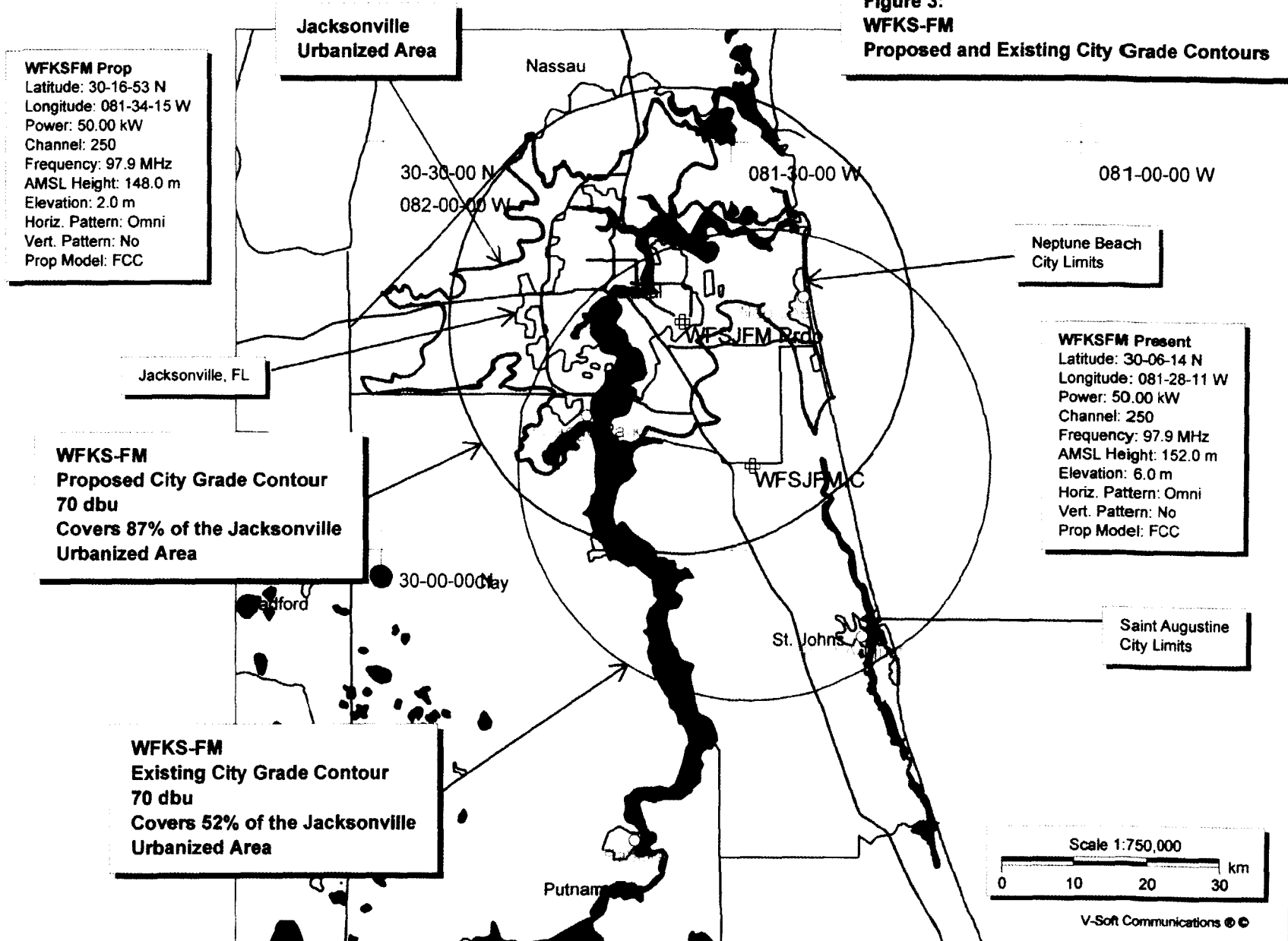


Figure 4:
WFSJ-FM
Proposed and Existing 60 dbu Contours
60 dbu Gain and Loss Areas

WFSJFM Prop
 Latitude: 30-16-53 N
 Longitude: 081-34-15 W
 Power: 50.00 kW
 Channel: 250
 Frequency: 97.9 MHz
 AMSL Height: 148.0 m
 Elevation: 2.0 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: FCC

60 dbu Gain Area:
46,122 Persons

Neptune Beach
 City Limits

WFSJFM Present
 Latitude: 30-06-14 N
 Longitude: 081-28-11 W
 Power: 50.00 kW
 Channel: 250
 Frequency: 97.9 MHz
 AMSL Height: 152.0 m
 Elevation: 6.0 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: FCC

WFSJ-FM
Proposed City Grade Contour
60 dbu
860,661 Persons

Area of common 60 dbu coverage
(Shaded – present and proposed)
814,539 persons

WFSJ-FM
Existing City Grade Contour
60 dbu
855,052 Persons

60 dbu Loss Area:
40,513 Persons

Saint Augustine
 City Limits

